IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 25822 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHAIRMAN, KISHORBHAI NAROTTAM BHAI THAKKAR - Petitioner
Versus
TORRENT POWER AEC LTD., & 1 - Respondents

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Appearance :
MS JAYSHREE C BHATT for Petitioner.
NOTICE NOT RECD BACK for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 12/02/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Leave to amend the prayer-clause is granted.

Rule. The endorsement on the Board indicates that though both the respondents are duly served with the notice for final disposal of the petition, none of them has appeared, either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition, upon the respondents. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, the petitioner i.e. Kishorbhai Narottambhai Thakkar, who is Chairman of Nilkanth (Paldi) Cooperative Housing Society Ltd., has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. Torrent Power AEC Ltd., to grant 28 electricity

connections to the residential and non-residential Units constructed by him. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Municipal Corporation to grant Building Use Permission to him in respect of the residential and non-residential Units constructed by him.

3. Nilkanth (Paldi) Cooperative Housing Society Ltd. was owner of the land forming part of Final Plot No.473, T.P.Scheme No.6-Paldi. The Chairman and Secretary of the said Society were desirous of developing the land. Therefore, they applied to Ahmedabad Municipal Corporation for grant of Commencement-Letter. Accordingly, Commencement-Letter was granted on July 14, 2006, which is quite evident from the contents of the document produced by the petitioner at Annexure-B to the petition. The case of the petitioner is that pursuant to the development permission granted by the respondent No.2, the petitioner has constructed 18 residential Units and 9 non-residential Units. After the construction of the

Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electricity connections to the Units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for grant of electricity supply to the Units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of communication dated September 1, 2006 addressed by the General Manager of the respondent No.1 to the petitioner, a copy of which is produced at Annexure-A to the petition. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to grant electricity connections to the Units constructed by him. Under the circumstances, the petitioner has filed the instant petition and claimed the reliefs to which reference is made earlier.

4. This petition was placed for admission hearing before the Court on December 14, 2006 and after hearing the learned Counsel for the petitioner, notice for final disposal of the petition was issued. As observed earlier, both the respondents are duly served, but, none of them has appeared before the Court, nor contested the petition.

5. This Court has heard Ms.Jayshree C.Bhatt, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to 18 residential Units and 9 non-residential Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connections to 18 residential Units and 9 non-residential units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to 18 residential Units and 9 non-residential Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it

will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to 18 residential Units and 9 non-residential Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to 18 residential Units and 9 non-residential Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]